Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL HILL, Petitioner	:	CIVIL ACTION NO. 03-160E
v.	:	(Judge Sean McLaughlin) (Magistrate Judge Lenihan)
JOHN J. LaMANNA, Warden, Respondent	:	

DECLARATION OF JAMES L. BECK

I, JAMES L. BECK, Ph.D., hereby declare the following:

1. That I am employed as the Research Administrator of the United States Parole Commission, and have held this position since October, 2001. That prior to this, I was employed by the Federal Bureau of Prisons as an Assistant Administrator for 12 years, and that prior to that, I was employed by the U.S. Parole Commission as Research Director and Hearing Examiner for 8 years.

2. That in November, 2005, I undertook research to determine in what percentage of cases the U.S. Parole Commission was departing from its 2000 guidelines for District of Columbia Code offenders.

3. That I identified a sample of 98 D.C. cases, which represents all D.C. Code offenders released on parole by the U.S. Parole Commission beginning January 1, 2005, through October 27, 2005. The Commission applied the 2000 guidelines in all of these cases.

4. That I examined a computerized copy of the notice of action issued in each of these cases, and determined that of the total of 98 cases:

37 cases (38%) were within the guideline range;

9 cases (9%) were discretionary decisions by the Commission to exceed the guideline range based on the degree of risk posed by the prisoner;

0 cases were discretionary decisions below the guidelines;[1]

36 cases (37%) were "non-discretionary" decisions above the guidelines;[2]

10 cases (10%) were continued to expiration (CTE) below the guideline range;

6 cases (6%) were decisions above the guidelines to allow time for release planning.[3]

I hereby declare under penalty of perjury the foregoing to be true and correct to the best of my knowledge.

11/16/05
Date

[signature]
JAMES L. BECK, Ph.D.
Research Administrator

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[1] As a practical matter, departures below the guidelines are virtually impossible in cases in which the "months to eligibility" is the sole factor determining the prisoner's guideline range (*i.e.*, cases in which the prisoner's "base point score" is 3 points or less, so that his "base guideline range" to which the "months to eligibility" range is added is 0 months, and in which there were no institutional infractions to increase the range--28 C.F.R. §2.80(h) and (j)) because the prisoner becomes eligible for parole release at the same number of months which represent the top of the guideline range. The Commission cannot release a prisoner before he has served his "months to eligibility", so it is precluded from a below-guidelines decision in this type of case.

[2] These cases consisted of those in which the prisoner had already served equal to or more than the top of the guideline range at the time of his hearing, due to the length of minimum term imposed, and those in which the prisoner's parole eligibility date was greater than the top of the guideline range.

[3] These case consisted of those in which the prisoner had served almost to the top of the guidelines (generally within 1-2 months) at the time of the hearing, and the Commission determined that time for release planning prior to parole was necessary. These 7 cases break down as follows:

(1) inmate had served 18 months on guidelines of 20-20 months at time of hearing, Commission ordered parole after 26 months to permit completion of BOP programs in which already enrolled, and for release planning;
(2) inmate had served 22 months on guidelines of 24-24 months, paroled at 25 months;
(3) inmate had served 14 months on guidelines of 16-16 months, paroled at 18 months;
(4) inmate had served 47 months on guidelines of 48-48 months, paroled at 53 months;
(5) inmate had served 11 months on guidelines of 12-12 months, paroled at 14 months;
(6) inmate had served 8 months on guidelines of 12-12 months, paroled at 14 months.

Exhibit B

CHAPTER 2. INDETERMINATE SENTENCES AND PAROLES.

Subchapter I. General Provisions.

Sec.
24-201. [Repealed].
24-201a. Board of Parole — Created; members; procedural rules.
24-201b. Same — Transfer of powers, employees, supplies and appropriations of Board of Indeterminate Sentence and Parole; duties of Parole Executive; cooperation of Department of Corrections.
24-201c. Same — Application for reduction of sentence.
24-202. [Repealed].
24-203. Indeterminate sentences; life sentences; minimum sentences.
24-204. Authorization of parole; custody; discharge.

Sec.
24-205. Arrest for violation of parole.
24-206. Hearing after arrest; confinement in non-District institution.
24-207. Repeal of inconsistent laws; savings provision.
24-208. Prisoners who may be paroled.
24-209. Federal Parole Board.

Subchapter II. Interstate Parole and Probation Compact.

24-251. Authority of Mayor to execute Interstate Parole and Probation Compact.
24-252. Definitions.
24-253. Severability.

Subchapter I. General Provisions.

§ 24-201. Board of Indeterminate Sentence and Parole.

Repealed. July 17, 1947, 61 Stat. 379, ch. 263, § 7.

§ 24-201a. Board of Parole — Created; members; procedural rules.

A Board of Parole for the penal and correctional institutions of the District of Columbia is hereby created to consist of 3 members appointed by the Mayor of the District of Columbia, 1 of whom shall serve on a full-time basis and be designated by the Mayor as Parole Executive. The other 2 members shall serve without compensation, 1 of whom shall be elected Chairman of the said Board. The Board of Parole shall select its own Chairman and shall have power to establish rules and regulations for its procedure. (July 17, 1947, 61 Stat. 378, ch. 263, § 1; 1973 Ed., § 24-201a.)

Cross reference. — As to availability of psychiatric services to Board of Parole, see § 24-106.

Change in government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

Board of Parole abolished. — The Board of Parole was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952, Reorganization Order No

33, dated May 28, 1953, established a Board of Parole under the direction and control of a Commissioner and consisting of 3 members for the purpose of developing and administering an effective parole system. The new Board was authorized to exercise all powers of the previously existing Board of Parole. All positions under the previously existing Board of Parole were transferred to the new Board including the duties, powers, and authorities of all officers and employees. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 33 was amended and redesignated as Organization Order No. 6, dated December 26, 1967. The latter Order continued the Board of Parole and prescribed its purpose, composition, and functions.

§ 24-201b. Same — Transfer of powers, employees, supplies and appropriations of Board of Indeterminate Sentence and Parole; duties of Parole Executive; cooperation of Department of Corrections.

Upon appointment of the members of the Board of Parole, the powers of the Board of Indeterminate Sentence and Parole created by § 24-201, not specifically repealed, shall be transferred to and vested in the Board of Parole. The officers and employees of the Board of Indeterminate Sentence and Parole, except the members thereof, together with all official records, furniture and supplies, and all unexpended balances of any appropriations, shall be transferred to the Board of Parole. It shall be the duty of the Parole Executive to prepare for the consideration of the Board of Parole all applications of prisoners for parole in such form and at such times and together with such information and records as the Board of Parole may require, to perform such administrative duties as the Board may prescribe, and to supervise prisoners on parole in accordance with the terms and conditions prescribed by the Board. The Department of Corrections and all other agencies and officials of the District shall cooperate with the Board and shall furnish the Board with such information, files, and records as it may deem necessary in the performance of its duties: Provided, that confidential information and records shall not be required to be produced. (July 17, 1947, 61 Stat. 378, ch. 263, § 2; 1973 Ed., § 24-201b.)

Reference in text. — Section 24-201, referred to in the first sentence of this section, was repealed by the Act of July 17, 1947, 61 Stat. 379, ch. 263, § 7.

Sovereign immunity where parolee's prior convictions not disclosed. — Where a parole officer was under a clear duty, defined by Department of Corrections policy, to disclose parolee's full adult record when referring him for employment, and was similarly under a duty to provide adequate supervision for parolee's parole, the parole officer's actions in failing to disclose parolee's prior sex-related convictions to parolee's potential employers was "ministerial," not "discretionary" action, and the District therefore was not shielded by sovereign immunity from liability arising out of parolee's actions in raping and murdering a woman in the apartment complex where he was employed. Rieser v. District of Columbia, 563 F.2d 462 (D.C. Cir. 1977).

Punitive damages based upon negligent nondisclosure of parolee's prior convictions. — Punitive damages were properly denied in a suit alleging that District parole officers negligently failed to advise a potential employer of a parolee's prior history of violent sex-related crimes, with result that the parolee was hired to work at apartment complex and subsequently raped and murdered plaintiff's daughter, in view of fact that evidence showed no indication that higher officers of District government either participated in or ratified parole officers' misfeasance. Rieser v. District of Columbia, 563 F.2d 462 (D.C. Cir. 1977).

§ 24-201c. Same — Application for reduction of sentence.

When by reason of his training and response to the rehabilitation program of the Department of Corrections it appears to the Board that there is a reasonable probability that a prisoner will live and remain at liberty without violating the law, and that his immediate release is not incompatible with the welfare of society, but he has not served his minimum sentence, the Board in its discretion may apply to the court imposing sentence for a reduction of his minimum sentence. The court shall have jurisdiction to act upon the application at any time prior to the expiration of the minimum sentence and no hearing shall be required. If a prisoner is serving a sentence for a crime for which a minimum sentence is prescribed by § 24-203 (b) his minimum sentence shall not be reduced under this section below the minimum sentence so prescribed. (July 17, 1947, 61 Stat. 379, ch. 263, § 4; June 29, 1953, 67 Stat. 92, ch. 159, § 201(b); 1973 Ed., § 24-201c.)

Standard for reduction of sentence. — The reduction in minimum sentence provided by this section requires a finding only that the prisoner has responded well to the rehabilitation program of the correctional facility such that his continued incarceration would serve no further useful purpose. Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Standard for reduction of sentence to time served. — In weighing petition by the Board for a reduction of defendant's minimum sentence to time served, the District Court seeks to determine whether the time served by the defendant is adequate to deter others from committing crimes and to satisfy society's desire for a punishment that fits offense, and also seeks to determine whether defendant is likely, if let free, to commit other crimes. United States v. McIlwain, 427 F. Supp. 358 (D.D.C. 1977).

Reduction of sentence not equivalent of certificate of rehabilitation. — The grant of a reduction of minimum sentence so as to render a prisoner eligible for parole is not the equivalent of a certificate of rehabilitation. Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Nor does it bar impeachment use of conviction. — The grant by a trial court of a reduction of a minimum sentence pursuant to this section does not bar impeachment use of the conviction under § 14-305(b)(2)(A)(ii). Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Finding of rehabilitation sufficient for parole. — A finding that the prisoner is sufficiently rehabilitated for parole is not equivalent to a finding that he has been so completely rehabilitated that the probative value of his conviction on the issue of his credibility has been diminished. Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Evidence held sufficient to justify defendant's immediate release. — Remorse, both deep and genuine, shown by defendant for what he did, together with a clearer indication of defendant's stability and the passing of an additional year since the initial petition by the Board for a reduction in minimum sentence to time served, is sufficient to establish that the defendant's immediate release is in the interest of justice. United States v. McIlwain, 427 F. Supp. 358 (D.D.C. 1977).

§ 24-202. Employees of Board of Indeterminate Sentence and Parole.

Repealed. July 17, 1947, 61 Stat. 379, ch. 263, § 7.

§ 24-203. Indeterminate sentences; life sentences; minimum sentences.

(a) Except as provided in subsections (b) and (c) of this section, in imposing sentence on a person convicted in the District of Columbia of a felony, the justice or judge of the court imposing such sentence shall sentence the person for a maximum period not exceeding the maximum fixed by law, and for a minimum period not exceeding one-third of the maximum sentence imposed, and any person so convicted and sentenced may be released on parole as herein provided at any time after having served the minimum sentence. Where the maximum sentence imposed is life imprisonment, a minimum sentence shall be imposed which shall not exceed 15 years imprisonment.

(b) The minimum sentence imposed under this section on a person convicted of an assault with intent to commit rape in violation of § 22-501, or of armed robbery in violation of § 22-3202 shall be not less than 2 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence as defined in § 22-3201, providing for the control of dangerous weapons in the District of Columbia. The minimum sentence imposed under this section on a person convicted of rape in violation of § 22-2801, shall not be less than 7 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence, as so defined. The maximum sentence in each case to which this subsection applies shall not be less than 3 times the minimum sentence imposed, and shall not be more than the maximum fixed by law.

(c) For a person convicted of: (1) A violation of § 22-505 (relating to assault with a dangerous weapon on a police officer) occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction; (2) a violation of § 22-3203, providing for the control of dangerous weapons in the District (relating to illegal possession of a pistol), occurring after the person has been convicted of violating that section; or (3) a violation of § 22-3601 (relating to possession of implements of crime) occurring after the person has been convicted in the District of Columbia of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction, the minimum sentence imposed under this section shall not be less than 1 year, and the maximum sentence shall not be less than 3 times the minimum sentence imposed nor more than the maximum fixed by law. (July 15, 1932, 47 Stat. 697, ch. 492, § 3; June 6, 1940, 54 Stat. 242, ch. 254, § 2; June 29, 1953, 67 Stat. 91, ch. 159, § 201(a); 1973 Ed., § 24-203; Feb. 26, 1981, D.C. Law 3-113, § 4, 27 DCR 5624.)

Cross references. — As to this section's inapplicability to federal sentences for continuing criminal enterprises, see 21 U.S.C. § 848(c). As to assault with intent to kill, rob, rape, or poison, see § 22-501. As to burglary, see § 22-1801. As to rape, see § 22-2801. As to robbery, see § 22-2901. As to definition of "crime of violence," see § 22-3201. As to added punishment for committing crime when armed, see § 22-3202.

Section references. — This section is referred to in §§ 24-201c and 24-207.

Legislative history of Law 3-113. — See note to § 22-2404.

Reference in text. — Subsection (b) of this section was added by the Act of June 29, 1953 and originally contained the phrase "armed robbery in violation of section 810 of such Act (D.C. Code 22-3202)." Section 810 of the Act of March 3, 1901 is found in the Code as § 22-2901 and concerns the crime of robbery. Section 22-3202 concerns the commission of a crime while armed.

Meaning of indeterminate sentence. — An indeterminate sentence is one for the maximum period imposed by the court, subject to termination by the Board at any time after service of the minimum period. Story v. Rives, 97 F.2d 182 (D.C. Cir.), cert. denied, 305 U.S. 595, 59 S. Ct. 71, 83 L. Ed. 377 (1938).

Indeterminate sentence differs from determinate sentence only in that the former imposes a minimum term; the good time and industrial time off provisions, however, are geared to the maximum term and the minimum term does not affect the computation. Johnson v. Ward, 171 F. Supp. 26 (D.D.C. 1959).

Sentence is legal so far as it is within provisions of law and jurisdiction of court, and is void only as to excess when such excess is separable and may be dealt with without disturbing valid portion of sentence. United States v. Neufield, 62 F. Supp. 600 (D.D.C. 1945).

Prisoner may be released only in discretion of Board. — A prisoner may be released from imprisonment before he has served the maximum period of his sentence, less lawful good-time allowance, only in the discretion of the Board. De Benque v. United States, 85 F.2d 202 (D.C. Cir.), cert. denied, 298 U.S. 681, 56 S. Ct. 960, 80 L. Ed. 1402, rehearing denied, 299 U.S. 620, 57 S. Ct. 6, 81 L. Ed. 457 (1936).

Indeterminate Sentence Act is not applicable where crime was committed before passage of that Act. De Benque v. United States, 85 F.2d 202 (D.C. Cir.), cert. denied, 298 U.S. 681, 56 S. Ct. 960, 80 L. Ed. 1402, rehearing denied, 299 U.S. 620, 57 S. Ct. 6, 81 L. Ed. 457 (1936).

Indeterminate Sentence Act is inapplicable to second-degree murder and the existing statute providing a penalty of imprisonment for life or for not less than 20 years remains in effect. Anderson v. Rives, 85 F.2d 673 (D.C. Cir. 1936).

This section is inapplicable to a criminal contempt conviction not only because it ought not and is not intended to apply, but also because it cannot be made applicable in view of fact that trial judge has nonarbitrary discretion in matter of sentence. Warring v. Huff, 122 F.2d 641 (D.C. Cir.), cert. denied, 314 U.S. 678, 62 S. Ct. 183, 86 L. Ed. 543 (1941).

Effect of Federal Parole Act on 15-year minimum sentence. — Federal court suggested, though it was not required to decide, that the general eligibility section (18 U.S.C. § 4205 (a)) of the Federal Parole Act did not supersede the specific 15-year minimum sentence prescribed in subsection (a). Frady v. United States Bureau of Prisons, 570 F.2d 1027 (D.C. Cir. 1978).

Modification of sentence before minimum sentence set. — Where a notice of appeal was filed after the trial court sentenced defendant but before the trial court entered order setting minimum sentences, the trial court was without jurisdiction to modify the sentence so as to provide for the minimum sentencing required by this section. Smith v. United States, App. D.C., 357 A.2d 418 (1976).

Court's power to resentence following void sentences. — Where the 1st sentences imposed under Indeterminate Sentence law were void, since the said statute was by its own terms inapplicable, the passing of the term did not deprive the court of power to resentence. De Benque v. United States, 85 F.2d 202 (D.C. Cir.), cert. denied, 298 U.S. 681, 56 S. Ct. 960, 80 L. Ed. 1402, rehearing denied, 299 U.S. 620, 57 S. Ct. 6, 81 L. Ed. 457 (1936).

Effect of section on sentencing under Youth Corrections Act. — The prospect of having conviction automatically set aside under Youth Corrections Act was a difference so important as to outweigh possibility of longer confinement and to warrant conclusion that a 2nd sentence, of 34 months to 102 months, under Indeterminate Sentence Law, was more severe than a 1st sentence, of 3 to 9 years, under Youth Corrections Act, for robbery; and, accordingly, the 2nd sentence, entered on motion to correct, was invalid where offender had already begun to serve 1st sentence. Tatum v. United States, 310 F.2d 854 (D.C. Cir. 1962).

Facts sufficient to admit felony-murder defendant to bail. — In view of the outstanding detention record of defendant, who had been convicted 4 times in an 8-year period for felony-murder in connection with an attempted robbery and whose first 3 convictions had been reversed, coupled with defendant's strong area ties, his family's help, assured employment, and his apparent determination to live a useful and productive life, the defendant would be admitted to bail pending appeal from 4th conviction. United States v. Harrison, 405 F.2d 355 (D.C. Cir. 1968).

Cited in United States v. Wilkerson, 592 F.2d 621 (D.C. Cir. 1978); Oesby v. United States, App. D.C., 398 A.2d 1 (1979).

§ 24-204. Authorization of parole; custody; discharge.

(a) Whenever it shall appear to the Board of Parole that there is a reasonable probability that a prisoner will live and remain at liberty without violating the law, that his release is not incompatible with the welfare of society, and that he has served the minimum sentence imposed or the prescribed portion of his sentence, as the case may be, the Board may authorize his release on parole upon such terms and conditions as the Board shall from time to time prescribe. While on parole, a prisoner shall remain in the legal custody and under the control of the Attorney General of the United States or his authorized representative until the expiration of the maximum of the term or terms specified in his sentence without regard to good time allowance.

(b) Notwithstanding the provisions of subsection (a) of this section, the Council of the District of Columbia may promulgate rules and regulations under which the Board of Parole, in its discretion, may discharge a parolee from supervision prior to the expiration of the maximum term or terms for which he was sentenced. (July 15, 1932, 47 Stat. 697, ch. 492, § 4; June 6, 1940, 54 Stat. 242, ch. 254, § 3; July 17, 1947, 61 Stat. 378, ch. 263, § 3; May 22, 1965, 79 Stat. 113, Pub. L. 89-24, § 1; 1973 Ed., § 24-204.)

Cross reference. — As to this section's inapplicability to federal sentences for continuing criminal enterprises, see 21 U.S.C. § 848(c).

Section references. — This section is referred to in §§ 4-134 and 24-207.

Change in government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(210) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-211), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-213(a)), appropriate changes in terminology were made in this section.

Congress intended to provide uniform administration of federal and District of Columbia law with respect to control of released prisoners. Johnson v. Ward, 278 F.2d 245 (D.C. Cir. 1960).

Authority of Board. — The Board has authority to impose conditions or to exercise supervision over prisoners convicted in the District of Columbia and thereafter released because of good conduct allowance. In re Reed, 158 F.2d 323 (D.C. Cir. 1946).

Board has a wide choice of dispositional alternatives: (1) It may excuse the violation altogether and withdraw its warrant; (2) it may immediately revoke parole; and (3) it may withhold revocation until parolee has completed service of his intervening sentence and then revoke parole. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Board is vested with broad discretion in the dispositional process. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

This section is not applicable to prisoner who is given conditional release. Johnson v. Ward, 171 F. Supp. 26 (D.D.C. 1959).

Rehabilitation equated with discharge from, not eligibility for parole. — The legislative history of subsection (b) of this section clearly indicates that Congress equated rehabilitation with discharge from parole supervision and not with eligibility for early parole. Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Reduction of sentence rendering prisoner eligible for parole. — The grant of a reduction of minimum sentence so as to render a prisoner eligible for parole is not the equivalent of a certificate of rehabilitation. Williams v. United States, App. D.C., 421 A.2d 19 (1980).

Judicial review of Board's selection of a disposition. — The Board's selection of a particular disposition, after full and fair consideration of available facts, may be regarded as almost unreviewable, but failure to afford a procedure whereby violator may seek a favorable disposition, or an outright refusal to consider proffered evidence in mitigation, is not immune from judicial review. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Judicial review available only after administrative remedies exhausted. — Judicial reviews of dispositional phase of parole revocation proceedings is available, if at all, only after the violator has pursued his administrative remedies. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Effect of new Board regulations on pending appeals. — Where the Board had issued new regulations concerning the processing and disposition of applications for withdrawal or execution of parole violator warrants prior to expiration of the intervening sentence.

appeals not otherwise disposed of would be remanded so that petitioners might pursue the administrative remedies provided in those regulations. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Proof of racial discrimination as basis for denial of parole. — The material facts in a prisoner's suit against the Board claiming that racial discrimination was basis of denial of parole must legitimately tend to show that the Board acted under color of law, and thereby subjected prisoner to deprivation of his federal rights. Richardson v. Rivers, 335 F.2d 996 (D.C. Cir. 1964).

Supervision following conditional release. — Where a defendant was given conditional release when his accumulated good time and industrial good time allowances and his time already served totaled the length of the term to which he had been sentenced, defendant was thereafter under the supervision of the United States Board of Parole until his maximum sentence expired, not counting his good time and industrial time allowances. Johnson v. Ward, 171 F. Supp. 26 (D.D.C. 1959).

Supervision of released federal prisoner. — Where federal prisoner was released pursuant to 18 U.S.C. § 4164, he was under supervision of the Board until the maximum sentence, not counting time off for good behavior, expired. Hicks v. Reid, 194 F.2d 327 (D.C. Cir.), cert. denied, 344 U.S. 840, 73 S. Ct. 51, 97 L. Ed. 653 (1952).

Disposition of consequences of parole violation. — Where the fact of a parole violation has been conclusively established by an adjudication, either state or federal, that a criminal offense was committed during release period, a parole violator may apply to the Board for immediate determination of disposition to be made concerning consequences of his parole violation and to seek what is in effect concurrent service on all, or a part of, the unexpired portion of his original sentence with the sentence imposed for criminal offense which constituted the parole violation. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Computation of sentence for parole eligibility. — The Department of Corrections improperly computed prisoner's sentences where it failed to give prisoner credit toward parole eligibility for time served under sentence which was later vacated. Cogdell v. Jackson, 397 F. Supp. 362 (D.D.C. 1975).

Facts created no genuine issue as to alleged racial discrimination. — A prisoner's conclusory assertions that racial discrimination was the basis of the Board's denial of parole as against Board's affidavits in denying discrimination did not create a genuine issue as to a material fact when viewed in light of the Board's broad discretionary power. Richardson v. Rivers, 335 F.2d 996 (D.C. Cir. 1964).

Cited in De Benque v. United States, 85 F.2d 202 (D.C. Cir.), cert. denied, 298 U.S. 681, 56 S. Ct. 960, 80 L. Ed. 1402, rehearing denied, 299 U.S. 620, 57 S. Ct. 6, 81 L. Ed. 457 (1936); United States v. Alston, App. D.C., 412 A.2d 351 (1980).

§ 24-205. Arrest for violation of parole.

If said Board of Parole, or any member thereof, shall have reliable information that a prisoner has violated his parole, said Board, or any member thereof, at any time within the term or terms of the prisoner's sentence, may issue a warrant to any officer hereinafter authorized to execute the same for the retaking of such prisoner. Any officer of the District of Columbia penal institutions, any officer of the Metropolitan Police Department of the District of Columbia, or any federal officer authorized to serve criminal process within the United States to whom such warrant shall be delivered is authorized and required to execute such warrant by taking such prisoner and returning or removing him to the penal institution of the District of Columbia from which he was paroled or to such penal or correctional institution as may be designated by the Attorney General of the United States. (July 15, 1932, 47 Stat. 698, ch. 492, § 5; June 6, 1940, 54 Stat. 242, ch. 254, § 4; July 17, 1947, 61 Stat. 378, ch. 263, § 2; 1973 Ed., § 24-205.)

Cross references. — As to this section's inapplicability to federal sentences for continuing criminal enterprises, see 21 U.S.C. § 848(c). As to representation of indigents, see §§ 1-2702 and 11-2601. As to rewards for apprehension of parole violators, see § 24-426.

Section reference. — This section is referred to in § 24-207.

Board secures its jurisdiction over parolee by issuing violation warrant before date of parole expiration, and such jurisdiction is not lost simply because board chooses to delay revoking parole until intervening criminal sentence has been fully served. Sutherland v. District of Columbia Bd. of Parole, 366 F. Supp. 270 (D.D.C. 1973).

Probationer subject to probation conditions even in jail. — When a probationer was actually serving a jail sentence while on probation with respect to another sentence, even in jail, he was subject to the conditions of the probation and by its terms he was to refrain from violation of law. Burns v. United States, 287 U.S. 216, 53 S. Ct. 154, 77 L. Ed. 266 (1932).

Unexpired portion of a parole violator's original sentence begins to run not when he is in prison by arrest or conviction for a new and separate offense but only when his parole has been revoked and he has been returned to custody of revoking authority. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C. Cir. 1951).

Application of District law to prisoner convicted of federal crime. — The Board did not err in acting pursuant to District of Columbia law with regard to prisoner who had been convicted of a federal crime, since the act establishing the Board transferred to it authority over prisoners held in District prisons, and provisions of this subchapter, rather than federal parole law, were to be applied to such prisoners. Howerton v. Rivers, 326 F.2d 653 (D.C. Cir. 1963).

Expiration of Board's jurisdiction over mandatory releasee. — One hundred eighty days before the expiration of a maximum 5-year term, a mandatory releasee's release became unconditional, he was no longer deemed as if released on parole, the Board of Parole no longer had jurisdiction over him, the Board had no authority to issue parole violation warrant on basis of prior parole violations and releasee could not be required to serve the full 5-year term. Birch v. Anderson, 358 F.2d 520 (D.C. Cir. 1965).

Board's jurisdiction over District parolee subsequently confined in federal penitentiary. — Where a prisoner was released from the District of Columbia Reformatory on parole, but a warrant was subsequently issued against him for violation of that parole and he was confined at a federal penitentiary in Kansas upon conviction of a new and separate offense, the Board of Parole did not lose its jurisdiction over petitioner to federal parole board. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C. Cir. 1951).

Board's 7-month delay in executing parole violator's warrant was not unreasonable, especially since reason for delay was to allow accused to serve 2 intervening sentences. Ginyard v. Clemmer, 357 F.2d 291 (D.C. Cir. 1966).

Effect of detention in places other than District. — Where a prisoner was released from the District of Columbia Reformatory on parole but a subsequent warrant was issued for violation of that parole, the fact that the prisoner had served time in various places of detention other than in the District did not fulfill the requirement of serving his District of Columbia sentence. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C. Cir. 1951).

Consecutive sentence for conviction of crime committed while on parole. — A petition for writ of habeas corpus, on the ground that petitioner's confinement after expiration of his sentence was illegal, was denied where petitioner had committed a crime while on parole, and the judge imposing the 2nd sentence had no power to make it and the unexpired portion of the 1st sentence run concurrently. Hammerer v. Huff, 110 F.2d 113 (D.C. Cir. 1939).

Cited in United States v. Alston, App. D.C., 412 A.2d 351 (1980).

§ 24-206. Hearing after arrest; confinement in non-District institution.

(a) When a prisoner has been retaken upon a warrant issued by the Board of Parole, he shall be given an opportunity to appear before the Board, a member thereof, or an examiner designated by the Board. At such hearing he may be represented by counsel. The Board may then, or at any time in its discretion, terminate the parole or modify the terms and conditions thereof. If the order of parole shall be revoked, the prisoner, unless subsequently reparoled, shall serve the remainder of the sentence originally imposed less any commutation for good conduct which may be earned by him after his return to custody. For the purpose of computing commutation for good conduct, the remainder of the sentence originally imposed shall be considered as a new sentence. The time a prisoner was on parole shall not be taken into account to diminish the time for which he was sentenced.

(b) In the event a prisoner is confined in, or as a parolee is returned to a penal or correctional institution other than a penal or correctional institution of the District of Columbia, the Board of Parole created by § 723a of Title 18, United States Code, shall have and exercise the same power and authority as the Board of Parole of the District of Columbia had the prisoner been confined in or returned to a penal or correctional institution of the District of Columbia. (July 15, 1932, 47 Stat. 698, ch. 492, § 6; June 6, 1940, 54 Stat. 242, ch. 254, § 5; July 17, 1947, 61 Stat. 379, ch. 263, § 5; 1973 Ed., § 24-206.)

Cross references. — As to this section's inapplicability to federal sentences for continuing criminal enterprises, see 21 U.S.C. § 848(c). As to representation of indigents, see §§ 1-2702 and 11-2601.

Section references. — This section is referred to in §§ 4-134 and 24-207.

Reference in text. — Section 723a of Title 18 of the United States Code, referred to in subsection (b) of this section, was repealed by the Act of June 25, 1948, 62 Stat. 862, ch. 645, § 21.

Board secures its jurisdiction over parolee by issuing violation warrant before date of parole expiration, and such jurisdiction is not lost simply because board chooses to delay revoking parole until intervening criminal sentence has been fully served. Sutherland v. District of Columbia Bd. of Parole, 366 F. Supp. 270 (D.D.C. 1973).

Board is vested with broad discretion in the dispositional process. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Granting or revocation of parole is within discretion of the Board. In re Tate, 63 F. Supp. 961 (D.D.C.), aff'd, 156 F.2d 848 (D.C. Cir. 1946).

But Board cannot act in disregard of facts. — Under this section, parolee should be permitted to present any pertinent matter, and, although Board's discretion in continuing or revoking parole is uncontrolled, it cannot act in disregard of facts or refuse to hear argument. Fleming v. Tate, 156 F.2d 848 (D.C. Cir. 1946).

Board has a wide choice of dispositional alternatives: (1) It may excuse the violation altogether and withdraw its warrant; (2) it may immediately revoke parole; and (3) it may withhold revocation until parolee has completed service of his intervening sentence and then revoke parole. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Considerations in determining appropriateness of reincarceration. — The board must consider mitigating circumstances and rehabilitative potential as well as existence of parole violations before determining that reincarceration is appropriate. Sutherland v. District of Columbia Bd. of Parole, 366 F. Supp. 270 (D.D.C. 1973).

Disposition of consequences of parole violation. — Where the fact of a parole violation has been conclusively established by an adjudication, either state or federal, that a criminal offense was committed during release period, a parole violator may apply to the Board for immediate determination of disposition to be made concerning consequences of his parole violation and to seek what is in effect concurrent service on all, or a part of, the unexpired portion of his original sentence with the sentence imposed for criminal offense which constituted the parole violation. Shelton v. United States Bd. of Parole, 388 F.2d 567 (D.C. Cir. 1967).

Federal prisoner has right to prompt parole revocation hearing on parole revocation detainer warrant lodged against him while he was serving 10-year term in federal penitentiary, and the Board could not wait until prisoner's current sentence had been served before holding hearing or revoking parole. Sutherland v. District of Columbia Bd. of Parole, 366 F. Supp. 270 (D.D.C. 1973).

This section contemplates an effective appearance and not the mere physical presence of prisoner, and implies that he must be given a hearing wherein he is entitled to be represented by retained counsel, present evidence, and adduce witnesses. In re Tate, 63 F. Supp. 961 (D.D.C.), aff'd, 156 F.2d 848 (D.C. Cir. 1946).

An opportunity to appear before the Board means an effective appearance, including presence of counsel, if desired by prisoner, and receipt of testimony if he has testimony to present. Fleming v. Tate, 156 F.2d 848 (D.C. Cir. 1946).

Under this section, a summary and informal hearing is sufficient. In re Tate, 63 F. Supp. 961 (D.D.C. 1946).

Alleged parole violator was entitled to present testimony of witnesses appearing voluntarily. Reed v. Butterworth, 297 F.2d 776 (D.C. Cir. 1961).

But testimony not governed by strict rules of evidence. — Although a parole violator is entitled to present testimony at a hearing before the Board, it is not required that the receipt of testimony be governed by strict rules of evidence. Fleming v. Tate, 156 F.2d 848 (D.C. Cir. 1946).

And extends to sentences imposed prior to amendment. — The 1947 amendment to this section permitting a parole violator to earn commutation for good conduct applies to service of the remainder of sentences after recommitment, although the sentences were originally imposed prior to such amendment. Jones v. Clemmer, 163 F.2d 852 (D.C. Cir. 1947).

Violation of right to appear entitled prisoner to release. — Where, at hearing before the Board to revoke a parole, parolee's counsel was not permitted to appear, parolee's employer was not permitted to testify, and parole was revoked, parolee's right under this section to appear before the Board was violated and parolee would be discharged on habeas corpus without prejudice to subsequent proceedings for revocation of his parole in conformity with this section. In re Tate, 63 F. Supp. 961 (D.D.C.), aff'd, 156 F.2d 848 (D.C. Cir. 1946).

Failure to have counsel present effectively denied appearance before Board. — Where a person was arrested and imprisoned for violation of conditional release and brought before the Board for hearing on revocation of conditional release, under the circumstances, his failure to have counsel present at the hearing was critical and effectively denied him of his statutory right to appear before board. Moore v. Reid, 246 F 2d 654 (D.C. Cir. 1957).

Counsel's absence from hearing warranted setting aside revocation order. — Where a violation of parole consisted in not reporting to parole headquarters immediately upon release and parolee remained at liberty 4 years without acquiring any criminal record, and his parole had been mandatory, the absence of counsel at parole revocation proceeding warranted setting aside order of revocation. Baker v. Sard, 486 F.2d 415 (D.C. Cir. 1972).

Effect of detention in places other than District. — Where a prisoner was released from the District of Columbia Reformatory on parole but a subsequent warrant was issued for violation of that parole, the fact that the prisoner had served time in various places of detention other than in the District did not fulfill the requirement of serving his District of Columbia sentence. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C. Cir. 1951).

Board's jurisdiction over District parolee subsequently confined in federal penitentiary. — Where a prisoner was released from the District of Columbia Reformatory on parole, but a warrant was subsequently issued against him for violation of that parole and he was confined at a federal penitentiary in Kansas upon conviction of a new and separate offense, the Board of Parole did not lose its jurisdiction over petitioner to federal parole board. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C Cir. 1951).

Cited in United States v. Alston, App. D.C., 412 A.2d 351 (1980).

§ 24-207. Repeal of inconsistent laws; savings provision.

All acts or parts of acts inconsistent with the provisions of §§ 22-2601, 24-201, 24-202 to 24-209 and 24-425 are hereby repealed: Provided, however, that for any felony committed before July 15, 1932, the penalty, sentence, or forfeiture provided by law for such felony at the time such felony was committed shall remain in full force and effect and shall be imposed, notwithstanding said sections. (July 15, 1932, 47 Stat. 698, ch. 492, § 7; 1973 Ed., § 24-207.)

References in text. — Sections 24-201 and 24-202, referred to in this section, were repealed by the Act of July 17, 1947, 61 Stat. 379, ch. 263, § 7.

Intent of section. — This section was intended to repeal those provisions of existing acts requiring the imposition of a definite, as distinguished from an indeterminate, sentence. Anderson v. Rives, 85 F.2d 673 (D.C. Cir. 1936)

§ 24-208. Prisoners who may be paroled.

The power of the Board of Parole shall extend to all prisoners whose sentences exceed 180 days regardless of the nature of the offense: Provided, that in the case of a prisoner convicted of an offense other than a felony, including violations of municipal regulations and ordinances and Acts of Congress in the nature of municipal regulations and ordinances, the prisoner may not be paroled until he has served one-third of the sentence imposed, and in the case of 2 or more sentences for other than a felony, no parole may be granted until after the prisoner has served one-third of the aggregate sentences imposed. (July 15, 1932, 47 Stat. 698, ch. 492, § 9; June 6, 1940, 54 Stat. 242, ch. 254, § 7(a); July 17, 1947, 61 Stat. 379, ch. 263, § 6; 1973 Ed., § 24-208.)

Section reference. — This section is referred to in § 24-207.

Cited in Gould v. Green, 141 F.2d 533 (D.C. Cir. 1944).

§ 24-209. Federal Parole Board.

The Board of Parole created by § 723a of Title 18, United States Code, shall have and exercise the same power and authority over prisoners convicted in the District of Columbia of crimes against the United States or now or hereafter confined in any United States penitentiary or prison (other than the penal institutions of the District of Columbia) as is vested in the District Board of Parole over prisoners confined in the penal institutions of the District of Columbia. (July 15, 1932, ch. 492, § 10; June 5, 1934, 48 Stat. 880, ch. 391; 1973 Ed., § 24-209.)

Section reference. — This section is referred to in § 24-207.

References in text. — Section 723a of Title 18, U.S. Code, referred to in this section, was repealed by the Act of June 25, 1948, 62 Stat. 862, Ch. 645, § 21.

The Board of Indeterminate Sentence and Parole was replaced by the Board of Parole pursuant to the Act of July 17, 1947, 61 Stat. 378, Ch. 263.

Reference to prisoners "confined in" is used in this section to designate a group of persons by institutions rather than to delimit powers of District board to such persons only while they are in confinement. Ex parte Gould, 51 F. Supp. 354 (D.D.C. 1943).

Power to impose conditions on release of United States prisoners. — The power of the United States Board of Parole to impose conditions on the release of United States prisoners in penal institutions of the District of Columbia on account of deductions for good conduct passed from United States Board of Parole to the District Board under this subchapter. Ex parte Gould, 51 F. Supp. 354 (D.D.C. 1943).

Power of federal board to supervise released prisoners. — This subchapter does not restrict in any way the power of the United States Board to supervise prisoners released on parole from institutions other than those in the District. Story v. Rives, 97 F.2d 182 (D.C. Cir.), cert. denied, 305 U.S. 595, 59 S. Ct. 71, 83 L. Ed. 377 (1938).

Jurisdiction over District parolee subsequently confined in federal penitentiary. — Where a prisoner was released from the District of Columbia Reformatory on parole, but a warrant was subsequently issued against him for violation of that parole and he was confined at a federal penitentiary in Kansas upon conviction of a new and separate offense, the District of Columbia Board of Parole did not lose its jurisdiction over petitioner to federal parole board. Noll v. Board of Parole for Gov't, 191 F.2d 653 (D.C. Cir. 1951).

Cited in Jones v. Jackson, App. D.C., 416 A.2d 249 (1980).

Subchapter II. Interstate Parole and Probation Compact.

§ 24-251. Authority of Mayor to execute Interstate Parole and Probation Compact.

The Mayor of the District of Columbia is hereby authorized to execute a compact on behalf of the District of Columbia with any of the states legally joining therein in the form substantially as set out in this section.